

# **Chevy Chase Village Board of Managers**

## **October 9, 2006**

### **BOARD OF MANAGERS**

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice Chair	Present
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

### **STAFF**

David R. Podolsky, Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Present
Shana R. Davis-Cook, Manager of Administration	Present
Michael W. Younes, Administrative Assistant	Present

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:30 p.m.

### **Approval of Minutes from the September 11, 2006 Board Meeting**

Ms. Eig and Ms. Feldman submitted changes to the minutes, which were circulated to Board members prior to the meeting.

**Ms. Stephens made a motion to approve the minutes of the September 11, 2006 Board Meeting as amended. Mr. Winstead seconded the motion. Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. Dr. Kamerow did not vote as he was absent from the September 11, 2006 meeting. The motion passed.**

### **Treasurer's Report**

The Treasurer's report was distributed to the Board prior to the meeting. Discussion followed.

### **Committee Reports**

#### **Building Facilities Commission**

Commission Chair Mary Anne Tuohey presented the Commission's report. Ms. Tuohey outlined upcoming events sponsored by the Building Facilities Commission and Committee on Children, Youth and Families. She stated that the Commission continues to look for ways to increase attendance in ongoing classes. Ms. Tuohey advised that at the Commission's

meeting on October 5, Natalie Jennings of 37 Oxford Street presented helpful information regarding increased involvement from teens in the community. The Commission changed the reservation policy and now requires a reservation fee be paid to reserve a room, date and time. The Commission will hold its next meeting on November 13, 2006 at which time they will review the standard operating procedures manual for event monitors.

Ms. Tuohey advised that the renovation of the former administrative offices continues well and the work progress should support using the space for the Holiday Party on December 13. Discussion followed.

### **Brookville Road Working Group (Working Group)**

Dr. Kamerow, Chair of the Working Group, stated that the Group met on Wednesday, October 4. As the State Highway Administration insists upon a minimum five foot (5') wide sidewalk/walkway, no further studies will be obtained. Staff was directed to contact all residents abutting the roadway to ascertain their acceptance/opinions/concerns related to the proposed introduction of a sidewalk/walkway along the east side of Brookville Road. The Group expects the survey of abutting residents to take several weeks. The survey results will direct further action by the Working Group. Discussion followed.

### **Connecticut Avenue Design Committee**

Alice Kinter, a Committee member, explained that a design plan must be approved in order to allow development of cost estimates in support of setting fundraising goals for the Connecticut Avenue revitalization project. Ms. Kinter explained that the Committee had unanimously selected the design firm, *EDAW, Inc.*, to draft a design plan.

On behalf of the Connecticut Avenue Design Committee, Ms. Kinter requested \$32,500 to be appropriated from reserves for the Connecticut Avenue Revitalization Project design, and requested further that the Village Manager be authorized to enter into a contract with *EDAW, Inc.* for these design services. Discussion followed.

**Ms. Feldman made a motion to authorize the appropriation of \$32,500 from reserves for the design of the Connecticut Avenue Revitalization Project and to authorize the Village Manager to enter into a contract with *EDAW, Inc.* for these design services. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

### **Decisions on Previous Appeals**

None.

### **Appeals**

**A-1582: Mr. and Mrs. Duane R. Gibson, 23 West Irving Street—(a) Removal of one Spanish Oak tree measuring 33.5-inches in diameter located in the rear yard of the property to accommodate a proposed addition. (b) Removal of one White Oak tree measuring 24.5-inches in diameter located in the rear yard of the property to accommodate a proposed addition. Mr. Gibson attended and presented his request. Robert**

Elliott, Chair of the Village Tree Committee, stated that the Committee concurred with the comments by Village arborist, William Dunn, that the two trees would not likely survive the proposed construction. Mr. Elliott questioned whether there was sufficient space on the lot to reforest with two additional canopy trees given the number of existing mature canopy trees on the property. Mr. Elliott stated that the Committee's recommendation was for removal of both trees, provided the applicants reforest with at least one canopy tree.

Dr. Kamerow noted that one letter was submitted for the record from Marea Grant of 16 West Irving Street in opposition to the removal. Ms. Stephens stated that the rear yard of the subject property had an impressive stand of canopy trees that are getting older and suggested reforestation of two trees in light of future removals. George Kinter of the Village Tree Committee stated that he felt one tree should be required for reforestation at this time with encouragement that the owners reforest when existing trees on the property require removal. Discussion followed.

**Mr. Jones made a motion to direct Counsel to draft a decision approving the (a) removal of one Spanish Oak tree measuring 33.5-inches in diameter located in the rear yard of the property to accommodate a proposed addition, and (b) the removal of one White Oak tree measuring 24.5-inches in diameter located in the rear yard of the property to accommodate a proposed addition, provided the applicants reforest with at least one deciduous hardwood tree that must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet, and provided all applicable Building Permits are approved for the proposed addition. Ms. Feldman seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-5170: Mr. and Mrs. Christopher Landau, 27 Quincy Street—Construct a rear addition, a portion of which would encroach two feet (2') into the seven-foot (7') side yard setback.** Mr. and Mrs. Landau and their architect, John Katinas, attended and presented their request. Discussion followed.

**Ms. Eig made a motion to direct Counsel to draft a decision approving the construction of a rear addition, a portion of which would encroach two feet (2') into the seven-foot (7') side yard setback. Mr. Yeo seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-1583: Mr. and Mrs. Christopher Landau, 27 Quincy Street—Removal of one Hemlock tree measuring 11.0-inches in diameter located in the rear yard of the property to accommodate a proposed addition.** Mr. and Mrs. Landau and their architect, John Katinas, attended and presented their request.

Bob Elliott, Chair of the Tree Committee, stated that the Committee supported removal of the tree. Discussion followed.

**Ms. Feldman made a motion to direct Counsel to draft a decision approving the removal of one Hemlock tree measuring 11.0-inches in diameter located in the rear yard of the property to accommodate a proposed addition, provided the applicants reforest with at least one deciduous hardwood tree that must be at least 2 ½ inches in caliper at the time of installation and must be of a species that achieves a mature height of at least 45 feet, and provided all applicable Building Permits are approved for the proposed addition. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-5123 (a): Mr. and Mrs. Brian A. Porto, 5414 Center Street—Construct a new main residence, the eaves of which would encroach six inches (6”) and two proposed chimneys would encroach one foot, eight inches (1’-8”) into the seven-foot (7’) side yard setback on the southwest side of the property.** Mr. Porto and his architect, Michael Fox, attended and presented their request.

Mr. Podolsky advised that because the owners intended to demolish the entire residence, the chimneys on the new house would not be developmental nonconformities and must comply with the current Village Code unless a variance is granted.

Carol Giacomo of 5412 Center Street stated that she had no objection to the proposed chimneys, but that she was concerned that the proposed house would be “out-of-sync” with the neighborhood.

Mr. Podolsky explained that the Board’s review of a request for demolition is solely to ensure that such work is carried out in such a manner that abutting property owners would not be adversely affected and that the interests of the Village pertaining to the public’s health, safety and welfare would not be jeopardized. The Board’s review of a demolition request does not include review of the proposed new house.

Heloise Morgan of 5417 Center Street asked how long the demolition process would take. Mr. Fox responded that the demolition would take a few days.

Margaret Cook of 5410 Center Street said she felt that if the existing house is going to be demolished the new house should comply with the Village Code.

Mike Pliskin of 5419 Center Street stated that he felt the demolition would take longer than that specified by Mr. Fox.

Margaret Sheridan of 5416 Center Street stated that she opposed the variance request in light of the demolition and that the new house should comply with Village Code.

Andrea Dettelbach of 5603 Kirkside Drive requested clarification of the defined role of the Board in relation to design in its review of variance and special permit requests. Dr. Kamerow stated that the State had recently approved a Bill that provided the Board with

increased authority to regulate design and proportions, but that this authority was so recently granted it has yet to be implemented.

Betty Tubbs of 5509 Montgomery Street asked if Mr. and Mrs. Porto could be granted their request for a two-year variance. Mr. Podolsky responded that the Board could authorize any timeframe it found reasonable.

Phillip Sheridan of 5416 Center Street stated that he felt the house would fit within the setbacks if the foyer was decreased in width. Discussion followed.

**Ms. Stephens made a motion to direct Counsel to draft a decision denying the construction of a new main residence, the eaves of which would encroach six inches (6”) and two proposed chimneys would encroach one foot, eight inches (1’-8”) into the seven-foot side yard setback on the southwest side of the property. Mr. Yeo seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**A-5123 (b): Mr. and Mrs. Brian A. Porto, 5414 Center Street—Install masonry retaining walls on either side of a proposed driveway with a maximum height of eight feet (8’).** Mr. Porto asked for his request to be postponed to the November 13 Board Meeting pending review by the Village Manager and Legal Counsel to determine if said walls are indeed subject to regulation by the Village Code.

## **Old Business**

**Resolution No. 10-01-06: Amendment of fee schedule.** Mr. Biddle explained that the Budget Committee asked staff to look into raising the fees in an effort to recoup some of the administrative costs for permit review and public hearings. Mr. Yeo added that the Board had reviewed the proposed fees in light of resident feedback and that the revised list reflected a shift of costs from the general taxpayer to the individual applicant. Betty Tubbs of 5509 Montgomery Street stated that she felt the new fees were fair. Discussion followed.

**Mr. Winstead made a motion to approve Resolution No. 10-01-06. Ms. Eig seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**Resolution No. 10-02-06: An ordinance to amend Chapter 6 of the Chevy Chase Village Code to amend the schedule of fines to increase the fines for failure to obtain a permit and failure to obtain approval for modification of or deviation from approved plans.** Mr. Biddle explained that fines were proposed for increase to further prevent contractors from violating the Village Code. Mr. Biddle and Chief Gordon explained the abatement process and pointed out that the Village can impose a fine for every day the violation remains after the initial violation.

**Ms. Feldman made a motion to approve Resolution No. 10-02-06. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.**

**Resolution No. 10-03-06: An ordinance to amend Section 8-29 of the Village Code to require that all wires, cables, pipes, poles, transformers, equipment lockers and other utility structures in the public right of way must be located below grade.** Mr. Biddle explained that he had recently been contacted by two separate communications network companies that expressed an interest in installing communications networks within the Village. Given this interest, Mr. Biddle asked Mr. Podolsky to draft a Resolution because Mr. Biddle deemed it in the best interest of the Village to require all new or upgraded utilities to be installed underground as opposed to overhead wiring, which affects the Village's tree canopy.

George Kinter of 121 Hesketh Street asked where the underground utilities would be located. Mr. Biddle responded that he thought it would be in the roadway itself. Discussion followed.

**The Board concluded it would not approve the Resolution at this time pending further investigation and understanding of what comprehensive policy might be developed to minimize roadway, right-of-way and private property disruptions.**

#### **Presentation by *RCN*: Micro-Trenching**

Mr. Biddle introduced Stephen Mascaro and Tony Anderson of *RCN* who described the process of micro-trenching. A synopsis of their description of the process follows:

- Micro-trenching is a new technology that allows utility companies to take fiber optic cables to the individual neighborhoods by using fiber optic cables that are placed underground within the roadbed.
- This technology minimizes disrupting sidewalks, driveways and street trees.
- Micro-trenching is performed using a saw that looks like a large circular saw which can make a trench into either concrete or asphalt.
- A five-inch (5") deep incision is cut into the surface of the roadway, approximately twelve inches (12") off the curb and gutter. Crews are able to trench one block per day, approximately 500 to 1000 linear feet per day, laying the fiber optic cable inside the trench as they go along.
- At-grade access vaults are proposed for placement in the public rights-of-way on the house side of the sidewalk. As residents order services, the connections are made from these vaults to the respective houses. The vaults range in size from 24" x 18", 24" x 24" or 24" x 38" and have a green plastic top. Each vault would be able to serve several homes.
- Trenching, cable installation and roadway repair all occur in the same day.
- Micro-trenching is the least obtrusive method currently used.

Numerous questions about the impact of this technology were raised. Ms. Feldman asked about the nature of the at-grade vaults, where they would be placed, and how connections would be made from these vaults to individual homes. It was indicated by the *RCN*

representatives that, as presently contemplated, there would need to be in-grade vaults with flat green plastic tops of up to 24x38 inches in front of approximately every five homes. They would be placed in residents' front yards (in that portion legally defined as 'public right-of-way'), and connections from those vaults to nearby neighbors might require trenching through driveways, stairs, paths, retaining walls, gardens, shrubbery, sprinkler systems, etc.

Mr. Biddle suggested that *RCN* might review its plans, considering the possibility of placing the vaults in the green space along the street, and making connections either along the green space or under the sidewalks.

Robert Elliott of 17 West Irving Street asked if the separate communications companies would come in separately to lay their cables and if one vault could be shared by more than one utility company. Mr. Biddle stated that the communications companies have advised that this is not usually feasible in their current operations.

Nancy Elliott of 37 West Irving Street asked how much private property disruption there would be.

Betty Tubbs of 5509 Montgomery Street asked how the wires would be laid to go from a vault in front of one house to as many as four houses in the area. Mr. Mascaro explained that hand or mechanical trenching would be required to draw the lines to each property as requested.

Mr. Mascaro stated that standard installation is free to the subscriber and that subscribers would only be charged for the installation of additional outlets within the house. Mr. Anderson clarified that all installations will be coordinated with the Village.

An unidentified resident asked if a single conduit could be dug that would accommodate all utilities in the roadway. Mr. Mascaro responded that this would require more roadway disruption and a lengthier process. Mr. Biddle stated that there were many technical hurdles in this approach. Mr. Winstead asserted that since the Village controls the roadways and rights-of-way, the Village should have the authority to regulate the number of access vaults that can be installed and coordinate their use and access in the best interests of the Village.

An unidentified resident encouraged the Board to hire an independent consultant that could advise how technology is expected to progress in the next 5 to 10 years to assess if this trenching is worthwhile for years to come.

Brian Porto of 5414 Center Street stated that he felt the utility companies should be required to place their utilities underground, which would allow the Village to achieve its desired tree canopy.

Dr. Kamerow thanked Mr. Mascaro and Mr. Anderson for attending. The Board directed Mr. Biddle to look for an independent consultant to investigate the technology's future.

## **New Business**

### **Chevy Chase Historical Society**

Mary Sheehan, President of the Chevy Chase Historical Society, was in attendance and thanked the Board for their contribution to the production of a DVD documentary made by the Historical Society entitled, "Chevy Chase, Maryland: A Streetcar to Home". Ms. Sheehan provided the Village with complimentary copies of the DVD and circulated order forms for ordering the DVD. The Board acknowledged the Society's thanks and accepted its token of appreciation. Discussion followed.

### **Maryland House Bill 1232**

Mr. Podolsky explained that the State-approved Bill became effective on October 1, 2006, empowering the Village to regulate building height, bulk, massing, lot coverage, impervious surfaces and design. This authority also allows the Village to make recommendations to Park and Planning regarding projects in and abutting the Village, and the Village could establish a vision statement for new subdivisions within the Village. No other municipality has yet enacted an ordinance pursuant to this expanded authority. Mr. Yeo stated that he felt this increased authority should be pursued carefully and proactively, preferably with the use of consultants.

Mr. Kinter stated that he recently spoke with Mier Wolf of the Town of Chevy Chase who advised that the Town had hired a consultant that was available to the Village, if desired.

Marilyn Montgomery of 5914 Cedar Parkway said she felt the Village should not wait to gauge other municipalities' exercise of this new authority, but that the Village should instead take a proactive role before mansionization affects the Village the way it has the Town of Chevy Chase.

Alex Boyle of 49 West Lenox Street stated that he felt the Village should seek precedent from the various municipalities outside of Montgomery County that already possess zoning authority.

Bob Stillman of 22 Primrose Street stated that mansionization is an issue that truly bothers Village residents and that it is important that the character of the community be maintained.

Brian Porto of 5414 Center Street stated that he felt the term "mansionization" was too easily applied to new homes and that there are a number of existing houses in the Village that are very large.

Margaret Sheridan suggested residents visit 142 Hesketh Street, which recently underwent a total house demolition and new construction to see how the house at 140 Hesketh Street appears in relation to the mass of this new house.

Mr. Winstead noted the minimal authority available to the Village prior to October 1 to regulate against mansionization. He stated that he felt the new authority should be pursued vigorously to benefit both the individual homeowners and the community at-large. Mr. Jones



said the Village should utilize the resources within the community by appointing a Committee to work with available consultants, but that the Village must be cautious to avoid enacting regulations in relation to “taste”. Ms. Eig agreed with Mr. Jones that the Village must be careful against enacting laws that focus on style and appearance. Ms. Eig suggested the focus be toward control of impermeable surfaces regarding water drainage. Ms. Feldman stressed the importance of compiling a sufficiently balanced Committee so that members do not constrain reasonable property improvements. Ms. Stephens concurred with Ms. Eig regarding the regulation of impermeable surfaces and water drainage.

Mr. Biddle stated that staff would assess the neighboring municipalities’ progress in pursuing the newly granted authority, begin contact with their consultants and put together a list of willing Village residents with building and architectural expertise to advise the Board on the Village’s options.

Louise Steiner of 5408 Center Street stressed that the Board must properly charge the Committee with this responsibility in a way that does not delay progress.

#### **Chairman’s Report**

None.

#### **Manager’s Report**

##### **2006 Resident Survey Results**

The results were circulated to Board members prior to the meeting. The Survey Steering Committee will meet to discuss the results on Monday, October 23. Discussion followed.

##### **Chevy Chase Land Company**

Mr. Biddle reported that progress took a significant step forward, details of which still require work. Mr. Biddle stated that he continues to work on screening in the Buffer Park for the *Giant* store’s sign. Discussion followed.

#### **Police Report**

The monthly Police Report was distributed to Board members prior to the meeting. Police Chief Gordon advised the Board of a break-in at All Saints Episcopal Church during the October 6/7 weekend. Discussion followed.

**Ms. Stephens made a motion to adjourn the meeting. Dr. Kamerow seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The meeting adjourned at 10:43 p.m.**

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Secretary, Chevy Chase Village Board of Managers

*Final.*